

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL WARD d/b/a BRAINTEASER
PUBLICATIONS,

Plaintiff,

-against-

ANDREWS MCMEEL PUBLISHING, LLC,

Defendant.

Case No. 12 Civ. 07987 (PAC)

ECF Case

DECLARATION OF ELEANOR M. LACKMAN

ELEANOR M. LACKMAN declares as follows:

1. I am a member of the Bar of this Court and of the law firm of Cowan, DeBaets, Abrahams & Sheppard LLP, attorneys for plaintiff Michael Ward d/b/a Brainteaser Publications (“Brainteaser”) in this proceeding. I submit this declaration in support of Brainteaser’s Memorandum of Law in Opposition to Andrews McMeel Publishing, LLC’s (“AMP”) Motion to Dismiss the Complaint.

2. Attached hereto as Exhibit 1 is a true and correct printout from Wikipedia (available at <http://www.wikipedia.com>) for the entry “Hangman,” as referenced by AMP in its Memorandum of Law in Support of its Motion to Dismiss (at 1-2).

3. Attached hereto as Exhibit 2 are true and correct copies of screenshots from Amazon.com’s sales page (available at <http://www.amazon.com>), featuring screenshots of Amazon’s “Look Inside!” feature for various S&S Hangman Books. The “Look Inside!” feature enables customers to view the cover page, preview a representative game, and see the back of the book.

4. Attached hereto as Exhibit 3 is a true and correct side-by-side comparison of the

instruction pages for the S&S Hangman Books and AMP's Infringing Books.

5. Attached hereto as Exhibit 4 are true and correct copies of screenshots from Amazon.com's sales page (available at <http://www.amazon.com>), featuring screenshots of versions of AMP's "Flip & Click Hangman" series, published by Accord, a division of AMP, including screenshots available through Amazon.com's "Look Inside!" feature.

6. Attached hereto as Exhibit 5 are true and correct copies of screenshots from Amazon.com's sales page (available at <http://www.amazon.com>), featuring screenshots of AMP's various Infringing Books, including from Amazon's "Look Inside!" feature, which offers a preview of both the inside and outside of the Infringing Books (as defined in the Complaint).

7. Attached hereto as Exhibit 6 is a true and correct copy of an amended copyright registration certificate for Brainteaser's *Hangwoman* (Reg. No. TX 7-389-642).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: New York, New York
February 28, 2013



ELEANOR M. LACKMAN